

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

MUHAMMAD ZAHID CHAUDHRY,

Plaintiff,

VS.

MICHAEL B. MUKASEY, ET AL.,

Defendants.

NO. CV-07-3106-FVS

ORDER GRANTING MOTION AND
REMANDING PETITION FOR
HEARING ON NATURALIZATION
APPLICATION TO THE
CITIZENSHIP AND
NATURALIZATION SERVICE
WITH INSTRUCTIONS

The Court has read and considered the papers filed in connection with the motion for an Order remanding Plaintiff MUHAMMAD ZAHID CHAUDHRY'S Petition for Hearing on Naturalization Application to the United States Citizenship and Immigration Service (USCIS), and now HEREBY GRANTS the motion for the following reasons:

1. On January 23, 2008, Plaintiff served a Petition for Hearing on Naturalization Application (“Petition”) upon defendants. Plaintiff asks the Court to adjudicate his Form N-400 Application for Naturalization (“Application”). See Petition, p. 6 (Prayer for Relief ¶).

2. The Court has jurisdiction over this action pursuant to 8 U.S.C. § 1447(b), which provides:

If there is a failure to make a determination under section 1446 of this title before the end of the 120-day period after the date on which the examination is conducted under such section, the applicant may apply to the United States district court for the district in which the applicant resides for a hearing on the matter. Such court has jurisdiction over the matter and may either determine the matter or remand the matter, with appropriate instructions, to the Service to determine the matter.

8 U.S.C. § 1447(b) (emphasis added).

3. Under Section 1447(b), the Court has two options. The first option is to “determine the matter.” See United States v. Hovsepian, 359 F.3d 1144, 1160 (9th 2004) (quoting 8 U.S.C. § 1447(b)). Section 1447(b) also allows the Court, in

lieu of the first option of “determin[ing] the matter,” to “remand the matter, with appropriate instructions, to the Service to determine the matter.” *Id.*

4. The Plaintiff and Defendants are before the Court with a Motion to Remand the Petition to USCIS (“Motion”). Remanding this action to USCIS would serve the interests of efficiency and judicial economy.

5. Furthermore, a remand would not preclude the filing of a subsequent district court action by Plaintiff in the event that USCIS should deny the Application. See 8 U.S.C. § 1421(c).

Therefore, for the foregoing reasons,

IT IS HEREBY ORDERED:

1. The parties Motion to Remand to the United States Citizenship and Immigration Services Under 8 U.S.C. § 1447(b), **Ct. Rec. 3**, is **GRANTED**.

2. The Motion to Amend [Proposed] Order Granting Motion and Remand Petition, Ct. Rec. 7, is **GRANTED**.

3. The Court REMANDS the Petition to USCIS with instructions to adjudicate and issue a decision in the Application within ninety (90) days after entry of this Order;

4. The Court **DISMISSES** Plaintiff's action without prejudice and without costs or attorneys fees; and

5. The Court shall retain jurisdiction to enforce the terms of this Order.

IT IS SO ORDERED.

IT IS FURTHER ORDERED that the Clerk of the Court shall serve copies of this Order on counsel for all parties.

DATED this 27th day of May, 2008.

s/ Fred Van Sickle
FRED VAN SICKLE
United States District Judge